

**CALIFORNIA DEPARTMENT OF INSURANCE
SLAVERY ERA INSURANCE REGISTRY
REPORT TO THE CALIFORNIA LEGISLATURE
MAY 2002**

I. THE LEGISLATION

A. SB 2199: Slavery Era Insurance Policies: Legislative Findings

In 2000, the California State Legislature passed SB 2199, authored by former Senator Tom Hayden (D-Los Angeles). The statute is entitled "Slavery Era Insurance Policies" and adds sections 13810 through 13813 to the California Insurance Code (CIC).

The Legislature found and declared that:

- (a) Insurance policies from the slavery era have been discovered in the archives of several insurance companies, documenting insurance coverage for slaveholders for damage to or death of their slaves, issued by a predecessor insurance firm. These documents provide the first evidence of ill-gotten profits from slavery, which profits in part capitalized insurers whose successors remain in existence today.
- (b) Legislation has been introduced in Congress for the past 10 years demanding an inquiry into slavery and its continuing legacies.
- (c) The Insurance Commissioner and the Department of Insurance are entitled to seek information from the files of insurers licensed and doing business in this state, including licensed California subsidiaries of international insurance corporations, regarding insurance policies issued to slaveholders by predecessor corporations. The people of California are entitled to significant historical information of this nature.

B. SB 2199: Slavery Era Insurance Policies: Statute

California Insurance Code section 13810 *et seq.* reads as follows:

CHAPTER 5. SLAVERY ERA INSURANCE POLICIES

13810. The commissioner shall request and obtain information from insurers licensed and doing business in this state regarding any records of slaveholder insurance policies issued by any predecessor corporation during the slavery era.

13811. The commissioner shall obtain the names of any slaveholders or slaves described in those insurance records, and shall make the information available to the public and the Legislature.

13812. Each insurer licensed and doing business in this state shall research and report to the commissioner with respect to any records within the insurer's

possession or knowledge relating to insurance policies issued to slaveholders that provided coverage for damage to or death of their slaves.

13813. Descendants of slaves, whose ancestors were defined as private property, dehumanized, divided from their families, forced to perform labor without appropriate compensation or benefits, and whose ancestors' owners were compensated for damages by insurers, are entitled to full disclosure.

II. IMPLEMENTATION BY THE CALIFORNIA DEPARTMENT OF INSURANCE

A. Notice to Insurers

The legislation was effective on January 1, 2001. On January 3, 2001, the Department began the process of implementing the provisions of the statute through the process of adding 2393 *et seq.*, to the California Code of Regulations.

The Department issued a Notice to Insurers regarding "Slaveholder Insurance Law." The Notice set forth in relevant part, that CIC sections 13810 *et seq.* took effect on January 1, 2001 and that the statute required insurers to provide information to the Department regarding slaveholder insurance policies together with any names of slaves and slaveholders in their possession. The Notice also indicated that the Department would hold hearings in order to gather public comment regarding the proposed regulation to implement the statute.

B. Rulemaking

On January 26, 2001, the Department issued public notice that hearings would be held in Los Angeles on March 13, 2001 and in San Francisco on March 16, 2001. The hearings, as required by the Government Code, were to consider and take public comment regarding the proposed regulation to implement the statute concerning the collection and reporting of information regarding insurer records of slaveholder insurance policies issued by California insurers and any of their predecessor corporations during the slavery era, which policies provided coverage to slaveholders for damage to, or death of, their slaves.

The rulemaking process consisted of the January 26, 2001, publication of Notice of the Public Hearings as well as simultaneous mailing of the Notice along with a document setting forth the Initial Statement of Reasons for promulgation of the regulation and the text of the proposed regulation.¹ These regulatory documents were mailed to all California property and casualty and life insurance companies, a statutorily mandated list of persons requesting notice of all Department regulatory actions, and to a list of interested parties. January 26, 2001, marked the beginning of the 45-day public comment period wherein the Department solicited and considered comments from the public on the proposed regulation.

¹ Statutory requirements for agency rulemaking are contained in California Government Code sections 11346 *et seq.*

C. Special Invitation Letter

On February 8, 2001, the Commissioner invited nineteen insurance companies that were either identified in the press as having written slavery era insurance policies, or which the Department identified as having transacted business in California in 1868 (the year that the Office of the Insurance Commissioner was established) to attend the public hearings on the regulation.²

D. Public Hearings

Public hearings were held in Los Angeles on March 13, 2001, and San Francisco on March 16, 2001. Commissioner Low commenced both proceedings with opening remarks.

The San Francisco hearing generated few public comments. The hearing was covered by two local radio stations and a filmmaker.

The Los Angeles hearing generated a large number of participants, most of whom made comments on the record regarding the issue of reparations to the descendants of African slaves. Local television and radio stations covered the hearing.

E. Rulemaking file submitted for approval

As a result of the comments received during the public comment period (written and verbal), the Department made some changes to the proposed regulation.³ The proposed changes were circulated to people who had submitted written public comments, who had testified at the hearings, and to people who indicated that they would like to have notice of any changes to the regulation. The rulemaking file was submitted to the Office of Administrative Law on September 6, 2001. The regulation was effective on October 13, 2001.

² Of those nineteen insurers, three provided names of slaves and slaveholders; five provided documents related to slave insurance, and several said that although they had been in business during the slavery era, they searched their records and found that they either wrote no slave insurance, or had no documents to indicate whether or not they had so written. Another seven insurers that did not receive the letter reported that they were in business during the slave era and either did not write slave insurance or were not able to find documents to so indicate.

³ The regulation was amended on April 13, 2001, (1) to clarify that the regulation applied to insurers and their predecessor entities (as opposed to “affiliates”) and to carriers that were “doing business” in California on or after January 1, 2001 (as opposed to carriers merely “holding a certificate of authority”); (2) to specify that “the slavery era” was defined as “prior to 1865” (as opposed to “between 1745 and 1865”); (3) to clarify the format in which the names of slaveholders, beneficiaries and/or policyholders was to be provided and (4) to provide an ‘outside deadline’ of December 14, 2001, for submission of information to the Department.

The regulation was further amended on July 20, 2001, to specify that the electronic reporting format to be used by the carriers to report data would be available on the Department’s website and to specify that if the Commissioner determined that a report was incomplete, that the Commissioner could require additional reporting, as necessary.

III. REPORTING REQUIREMENTS

The regulation required carriers to submit the requested data by October 13, 2001, the effective date of the regulation. Reports were to be provided on paper with names of slaves and slaveholders to be provided to the Department in an electronic format as well.

The Department's Statistical Analysis Bureau issued a Circular SEIR-2001 to 1,357 carriers that were subject to the regulation (all life insurers and property and casualty insurers licensed to do business in California), providing carriers with the requirements for the electronic format. To date, the compliance response rate is approximately 92%. We are continuously in contact with insurers that have either not responded or that have not responded completely.

The basic reasons for incomplete reporting are that the insurer failed to describe the research it did to determine whether or not it has documents related to slavery era insurance, or failed to report as to predecessor companies.

IV. INSURER RESPONSES

The vast majority of responses indicated, in some fashion, that as the insurer had been incorporated sometime after the end of the defined slavery era and since there was no predecessor company that existed during the applicable period, that the insurer had nothing to report.

The Department also received a few responses indicting that the company or its predecessor was doing business during the applicable period, and conducted a thorough search of its archives and records, but was unable to find responsive information or documents. A variation of this response was that the insurer routinely destroyed documents beyond a certain age and therefore, had no way of knowing whether or not a slavery era predecessor existed. A permutation of this response was that a slavery era predecessor existed, as evidenced by other corporate archives, but that responsive documents had been lost or destroyed.

The insurers listed herein were able to locate and provide to the Department, information and/or records responsive to the regulation.

Substantive responses were received from the following insurers.

ACE USA

Ace reported that it is the successor to two corporations, Insurance Company of North America (ICNA) and Aetna Fire, which conducted business during the slavery era.

Research methodology

Ace reported that in order to comply with the regulation, it retained a law firm to assist in its efforts to identify and compile all of the records and information related to slavery era insurance policies. Ace said that, through counsel, it contacted archivists and historians from several

universities and historical societies and obtained insights on how they might most fully identify any responsive data located in its archives.

To assist in its search, Ace acquired a database of information about the transatlantic slave trade that contains the records of 27,233 transatlantic slave ship voyages made between 1595 and 1866. Ace reported that it also reviewed the historical records that it received from its predecessor corporations.

Ace reported that it found a copy of a slave policy written in 1855 by Aetna Life, and that even though this was after its separation from Aetna Fire, in the interests of full disclosure it was submitting the document. This policy insured the life a slave named Peter, identified as a laborer, and was issued in Mississippi.

AETNA

Aetna filed a report on behalf of the four of its companies presently authorized and licensed to do business in California. It stated that Aetna Life Insurance Company (ALIC) is the only one of those companies that was in existence during the slavery era.

Research methodology

Aetna reported that it established a team of lawyers, paralegals and business people, who were charged with coordinating its response and overseeing its compliance with the regulation.

Aetna reported that ALIC was incorporated in Connecticut in 1853 and was first licensed to write life insurance in California in 1868.

Aetna reported that the team conducted a thorough review of potentially relevant practices of all of its companies that issued life insurance anywhere in the United States. The team reviewed all pertinent documents in its possession and also communicated with former subsidiaries for all potentially applicable materials. It reported on materials and information still located within the company as well as materials and information transferred to the former subsidiaries.

Aetna reported an extensive internal search through its archives, by several employees, to locate records, files and other information required by the statute and to determine the extent, location and nature of its business activity and operations from the slavery era. Aetna reported that the search included, but was not limited to, historical policies, annual reports, company publications, rare books, agent instruction manuals, communications to agents, marketing materials and applications, records housed outside of the company, communications with the company's complaint units, communications with relevant managers and other personnel, discussions with its storage facility, a review of all identifiable life insurance documents retrieved from its storage facility,⁴ as well as communications with the South Carolina Historical Society.

⁴ Aetna reported that in 1994, their prior storage facility took over the document storage function from the company and at that time, a large amount of life insurance related materials were destroyed in the ordinary course of business and within the company's document retention guidelines.

Aetna also reported that the team spoke to former employees now employed at its former subsidiary, who informed them that the administrative database that tracks all of the former life insurance policies does not contain any policies from the slavery era. Aetna reported that the system automatically deletes the files after the policies have terminated, and therefore, no life records would exist either in paper or electronic format. Aetna reported that it tested the database with a query that produced an extract that listed the oldest policy as one that was issued in 1923. It reported that after reasonable efforts and due diligence, the team was not able to identify any additional records relating to slavery era insurance.

Names of slaves and slaveholders

Aetna's search uncovered seven policies, some of which cover multiple lives. In most instances, there is no record of the last name of the insured slave. Five of the policies were found in the company's archive, and the other two were obtained from outside sources. Aetna produced a list of sixteen first names of slaves culled from the seven policies. Sometime after its initial report, Aetna discovered a ledger book containing the names of slaves and slaveholders and submitted those additional names as well.

AIG

AIG reported that in August 2001 it acquired America General Corporation (ACG), comprised of seventeen insurers licensed to do business in California. AIG reported that of those seventeen, only United States Life Insurance Company in the City of New York (U.S. Life) did business during the slavery era.

AIG reported that it used a professional staff of certified archivists to research the records of the company and its subsidiaries.

AIG reported that its corporate archivist researched records and interviewed staff in all ACG offices and that all potentially relevant documents, both paper and microfilm, were examined. AIG also interviewed records administrators in their facilities in several states and at its outside storage facility.

While AIG's research failed to uncover copies of any slavery era insurance policies, the search did locate a magazine article which contains a replica of a policy issued to a slaveholder in the amount of \$550.00 on the life of one male slave known as "Charles." The article recites the provisions of the policy, which, as a matter of historical interest, contained a number of exclusions [*inter alia*, "death to said slave by means of any invasion, insurrection, riot, civil commotion, or of any military or usurped power, or in case the slave shall die by his own hand, or in consequence of a duel, or by the hands of justice...this Policy shall be void, null, and of no effect.].

AIG also provided a list of the names of slaves and slaveholders culled from U.S. Life bound registries.

MANHATTAN LIFE

Manhattan Life provided one policy that insured shippers for their cargo of 700 Chinese coolies on a journey from China in 1854.

Manhattan Life quoted a 1961 speech made by the president of the company.

“Early in 1854 Howland and Aspinwall, New York ship owners, approached The Manhattan Life Insurance Company for insurance on a group of about 700 Chinese coolies sailing on the Clipper Sea Witch from Swatow, China to Panama. These 700 coolies were valued at \$120.00 each and the ship owners desired \$84,000.00 of insurance to cover their lives. The minutes of the Board meetings during this period indicate heated discussions as to whether or not this risk should be taken. In any event, the Company finally decided to issue what we believe to be one of the first, if not the first, Group policy ever to be written by an American Life Insurance Company. The underwriting was based on certain stipulations, and particularly required that a Doctor must make the voyage aboard the Clipper, and be responsible for sanitary conditions, food, and other factors affecting mortality.

The Manhattan Life assumed one-fourth [sic] of the total risk, or \$21,000.00 for a premium of \$840.00. The balance of the risk was reinsured with four other companies....

Actually 720 coolies were shipped [sic] by the Sea Witch, which incidentally still holds the China to New York record for sailing ships. Within twenty-four hours after sailing, three of the Panama bound coolies jumped overboard and were lost. During the sixty-five day voyage, eleven other coolies died of sundry diseases according to the doctor's report, dated March 31, 1854 in the City of Panama. On April 29, 1854 The Manhattan Life paid \$408.00, one-fourth of the total loss, and consequently made \$432.00 on this transaction.”

The speaker mentioned that the policy insuring the workers had been donated to the city Museum of New York. Manhattan Life ordered the policy and enclosed it with its report.

NEW YORK LIFE

New York Life reported that its predecessor, Nautilus Insurance Company began writing life insurance policies in 1845 and sold slaveholder life insurance policies for approximately two years in the 1840's until the Trustees voted to end the sale of such policies in 1848.

New York Life stated that it abhors the practice of slavery and profoundly regrets that its predecessor was associated in any way with that contemptible practice for even a brief period of time. It went on to state that the fact that slavery was legal in certain parts of the United States during that time does not make it any less repugnant. New York Life stated that while it regrets this history, it understands the historical value of its archival records and that contributing to our

society's understanding of the slavery era and helping people trace their genealogy are laudable objectives.

Research methodology

New York Life reported that it undertook an extensive review of its slavery era archival records, including published histories of the company, Policy Registers, Index of Applicants and Death Claim Book. The company also reports that it retained outside professional archivists to assist with this research effort.

Slavery era insurance policies

New York Life reported that of the first 1,000 policies written by the predecessor, 339 were on the lives of slaves and that these policies were usually written for less than \$500 and for a term of one year. New York Life reported that there were three death claims under slave policies in the period under review, with a total of \$1,050 paid.

Names of slaves and slaveholders

New York Life provided a list of 484 names of slaves and 233 names of slaveholders

PENN MUTUAL

Penn Mutual reported that during the slavery era it was licensed to do business in Pennsylvania only and so wrote no slave insurance. It reports that it was licensed to write insurance in Virginia as of 1912.

Slavery era insurance policies

Penn Mutual reported that they found two documents in their archives regarding insurance policies issued to slaveholders that provided coverage for the death of slaves in Virginia. The documents provided no indication of the identity of the insurance company that issued those policies, and no indication of how or why Penn Mutual had acquired the documents in its historical archive. Copies of the documents were provided along with the report.

PROVIDENCE WASHINGTON

Providence Washington reported that it celebrated its 200th anniversary in 1999 and in preparation, went through all of its files along with material at the Rhode Island Historical Society. The company reported that although no material was found indicating that it had insured slaves, they did find an entry in one of the company's historical reference books setting forth the account of a meeting held in 1799.

“...When the subscription was opened, it revealed that 2623 shares had been spoken for, a clear demonstration of confidence in the company's future.

Before the subscription lists were opened, the meeting solemnly voted ‘**[t]hat no insurance is to be made on behalf of this company upon any vessel, or property laden therein, for the purpose of carrying on the Slave Trade.**’ Any subscriber

unwilling to abide by this condition was privileged to withdraw; no one did. This refusal to insure slaving vessels illustrates a basic change both in the moral and commercial attitude toward slavery. Before the Revolution the prosperity of Rhode Island had been founded on the slave trade, molasses, and rum; the trade was considered to be highly respectable and indeed essential to the economy of the Colony. The War of Independence had cut off the importation of Negroes throughout the colonies; and in Rhode Island the Quakers, who occupied many of the public offices, allied with others who were imbued with the new philosophy of freedom, had grasped the opportunity to make this condition permanent. A law prohibiting the importation of slaves, which was passed in 1774 as part of the non-importation agreement directed against British trade, remained on the statute books after the signing of the peace in 1783. Legislation passed by the General Assembly in 1784 provided for gradual emancipation by putting an end to hereditary slavery, and in 1787 Rhode Islanders were forbidden to take part in the slave trade under penalty of £100 fine for each slave transported and £1000 fine for each vessel so employed. The abolitionists had won their battle in Rhode Island... ” (emphasis in the report).

ROYAL & SUN ALLIANCE

Royal & Sun Alliance submitted a consolidated report on behalf of all of its companies licensed in California.

Research methodology

Royal & Sun Alliance reported that they conducted a thorough search for records of policies issued to slaveholders during the slavery era for injury to or death of slaves and found that they had no such records in their possession. The company reported, however, that historical records exist, indicating that London Assurance, one of their member companies, was a marine insurer starting in 1720 and limited evidence suggests that this company may have insured owners of slave-carrying vessels. Royal & Sun Alliance reported that it was not possible for them to quantify the extent of the insurance written by this affiliate. The company reported that the slave trade was abolished in England in 1806, pursuant to Parliament’s passage of the Abolition of Slaves Act, and the insurance of slaves and ships was prohibited in the United Kingdom in 1811 pursuant to the Slave Trade Act.

Historical information regarding insurance for human cargo

Royal & Sun Alliance submitted an excerpt of a corporate history of London Assurance written in 1949.

“That the fear of capture by pirates, with the consequent risk of being sold into slavery, was a very real one, is reflected in the following and many similar insurances: ‘£300 on Capt. Theo Weight, and £75 on Edward Morris, a boy of about 14 years old, that they and neither of them shall not be carried into slavery...’ In the event of a claim being presented, one supposed the money would have been applied to the payment of a ransom. The horrors of slavery, for oneself, did not, however, preclude our ancestors from indulging, without qualms,

in the abduction of Negroes from their homes, and making a profitable speculation in their shipment, as mere cargo, to the British plantations in Virginia and Carolina, or the West Indian islands. The early books of The London Assurance are full of such transactions, often, one regrets to state, for account of directors of the Corporation. Here is one: ‘Captain Richard Pinnell [Director 1726-38] 30th August, 1733 on the *Mary Snow* and Goods, both or either, according to the Assured’s interest, at and from London to the Coast of Africa and at and from thence to her port of discharge in the British West Indies. *Warranted sheathed*⁵, and free from all damage by prohibited trade, and free from the death of Slaves either Natural, Violent, or Voluntary. £800.’ [Emphasis in the original.]

In a similar risk on 10 October 1733, on the *Penelope Snow* for the same trader, for £300, it was stated that ‘the Assured doth hereby agree to *warrant the ship sheathed*, to take on himself all loss and damage arising by Death and Insurrection of Negroes’. [Emphasis in the original.]

...[O]n Saturday, 15 June 1728, the following entry appears in the underwriting record: ‘Henry Neale, Esq.[Director 1720-47], on 50 negroes in the *Benedicta* Brigantina (Arthur Reymond, Captain) at and from Gambia to Virginia. The Assured doth hereby agree to *warrant the ship sheathed*, to take on himself all Averages arising by Death and Insurrection of negroes, and all loss or damage by prohibited trade. £500 @ 3%’ Ten pounds a head! [Emphasis in the original.]”

An Assurance policy with similar language was submitted by the Corporation for counsel’s opinion in 1729:

“ ‘A policy of insurance was made on Ship and Goods at and from London to the Coast of Africa and thence to Carolina upon interest with the following Warranty: The Assured hath agreed to warrant the ship sheathed, to take upon himself all Averages arising by Death and Insurrection of Negroes and all Loss and Damage by prohibited trade.’ The ship proceeded to Africa, and the Master disposed of the outward-bound cargo in purchasing Negroes, a few Elephant’s teeth, and some Gold Dust, and having finished the trade there, departed for Carolina, but before he got off the Coast, the Negroes made an insurrection, killed two of the mariners, and the Ship taking fire, the Master and rest of the mariners quitted her and got away in the boat, the Negroes ran the ship ashore and made their escape by leaping overboard and swimming to land, as is supposed, and the Ship was beat to pieces and totally lost with other goods on board.’ ”

⁵ “Sheathing” the ship refers to the practice of nailing copper sheathing over the ship’s wooden hull to prevent slaves from boring holes in the sides of the vessel in order to sink the ship.

The question put to counsel was:

“ ‘Whether the Warranty does not exclude the insurer as to all Damage to Ship and Cargo arising by means of the Insurrection, or whether such damage only as was sustained by loss of the Negroes, or how far and as to what Damage will this Warranty be construed to extend?’ To which counsel replied: ‘I think the loss of the Negroes will be expressly within the Warranty and must be sustained by the Assured, and so I think it will be also as to ye burning of the Ship, if the same was burnt by the Negroes, or if such burning was a consequence of the insurrection.’ “

...There is a tradition in the Corporation, though no written evidence of it has come to light, [ftnt. 1 - many of the records of the period have unfortunately been destroyed] that in the middle of the eighteenth century a cargo of slaves (each of whom was branded on the thigh) was insured, and heavy weather being encountered on the voyage, some of the Negroes were jettisoned, and in the consequence a claim for General Average was presented by the owners. An Act of 1799 put an end to such inhuman practices, for it provided that: ‘No loss of damage shall hereafter be recoverable on Account of the Mortality of Slaves by natural Death, or ill-treatment, or against Loss by throwing overboard of Slaves on any Account whatsoever, for restraints and detainments of princes, and people of Africa, caused through any Aggression for the Purpose of procuring Slaves’. The Acts of 1806 and 1811, which abolished the Slave Trade, prohibited, under heavy penalties, the insurance of slaves or slave-ships.”

V. ENFORCEMENT

Compliance Rate

To date, 92% percent of all carriers contacted are in compliance with the regulation. Additional responses are coming in daily and the Department continues to follow-up with carriers that submitted incomplete responses or that did not respond, until all requested responses have been received.

Further, California Insurance Code section 12926 provides that:

[t]he commissioner shall require from every insurer a full compliance with all provisions of this code.

CIC section 704.5 provides, *inter alia*, that a carrier’s certificate of authority may be suspended or revoked for violation of any insurance statute and CIC section 704.7 provides that the commissioner may permit a carrier to elect to pay a money penalty, not exceeding \$55,000.00 *in lieu* of suspension of the certificate.

VI. PUBLIC ACCESS TO INFORMATION

As of May 1, 2002, the names of slaves and names of slaveholders will be attached to this report, and submitted to the California Legislature. The report and the names will also be posted on the Department's website.

As of May 1, 2002, all reports submitted by insurers, together with the documents attached thereto, will be available for inspection at the Department of Insurance public viewing rooms in Los Angeles and San Francisco.

300 South Spring Street, 12th Floor
Los Angeles, California 90013
213-346-6707
Hours: 8:00 am – 4:30 pm

45 Fremont Street, 23rd Floor
San Francisco, California 94105
415-538-4300
Hours: 8:30 am – 5:00 pm

For both locations, people who wish to review the documents should call in advance to schedule an appointment.

The public viewing room staff will photocopy pages for 54 cents per page, or copies can be made through a photocopying service.

For additional information contact either:

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